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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,500	02/27/2004	Evan George Colgan	YOR920030527US1 (8728-665)	9091
46069	7590	10/17/2006	EXAMINER	
F. CHAU & ASSOCIATES, LLC 130 WOODBURY ROAD WOODBURY, NY 11797			MITCHELL, JAMES M	
			ART UNIT	PAPER NUMBER
			2813	

DATE MAILED: 10/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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10/ 789 500

EXAMINER

ART UNIT

PAPER

20061002

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**Commissioner for Patents**

Applicant has failed to submit drawings of the claimed features as requested by examiner in the office action mailed April 21, 2006. Applicant based on his reading of 37 CFR 1.181 (a) has contended that drawings are only required where "necessary for the understanding of the invention." Thus, since examiner has already examined the claims, and made no assertion of it not being understandable that no drawings are needed. Examiner is not persuaded.

The language quoted by applicant is the first line of 37 CFR 1.81, which has already been explained in section 608.02 of the M.P.E.P. The section states that the first sentence criteria is the standard to determine if an application gets a filing date; this is carried out by OIPE not examiners. It does not follow that because the application received a filing date that no additional drawings will be needed. The M.P.E.P in 608.02 even states in relation to missing drawings that "where [missing] drawings...do not render the application incomplete...[t]he examiner should [still] require such drawings..."

The basis for examiner's objection was 37 CFR 1.83, which says in part "drawings...must show every feature specified in the claims." See M.P.E.P 608.02(d)[R-3]. The exception to this requirement is for conventional features. Since, the features indicated by examiner were drawn to applicant's novelty and not conventional features, applicant is required to include them in his drawings. Moreover, the requirement for including applicant's claimed features in his drawings are not simply for the subjective understanding of a single examiner as proposed by applicant, but also to assist in putting the public/world on notice of applicant's novelty/ invention.

As previously indicated, drawing objections are not held in abeyance. Hence, the response period will not be restarted. Applicant must either show the feature(s) claimed or cancel them from the claim. Failure to timely and appropriately respond to this request will result in the abandonment of this application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M. Mitchell whose telephone number is (571) 272-1931. The examiner can normally be reached on M-F 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Whitehead Jr. can be reached on (571) 272-1702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jmm, J.D.  
October 3, 2006

FTO-90C (Rev.04-03)

  
CARL WHITEHEAD, JR.  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800